



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2009 REGULAR SESSION

HOUSE BILL NO. 87

WEDNESDAY, FEBRUARY 25, 2009

The following bill was reported to the Senate from the House and ordered to be printed.

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TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adler

AN ACT relating to occupational taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1 ➔ Section 1. KRS 67.750 is amended to read as follows:

2 As used in KRS 67.750 to 67.790, unless the context requires otherwise:

3 (1) "Business entity" means each separate corporation, limited liability company,
4 business development corporation, partnership, limited partnership, sole
5 proprietorship, association, joint stock company, receivership, trust, professional
6 service organization, or other legal entity through which business is conducted;

7 (2) "Compensation" means wages, salaries, commissions, or any other form of
8 remuneration paid or payable by an employer for services performed by an
9 employee, which are required to be reported for federal income tax purposes and
10 adjusted as follows:

11 (a) Include any amounts contributed by an employee to any retirement, profit
12 sharing, or deferred compensation plan, which are deferred for federal income
13 tax purposes under a salary reduction agreement or similar arrangement,
14 including but not limited to salary reduction arrangements under Section
15 401(a), 401(k), 402(e), 403(a), 403(b), 408, 414(h), or 457 of the Internal
16 Revenue Code; and

17 (b) Include any amounts contributed by an employee to any welfare benefit, fringe
18 benefit, or other benefit plan made by salary reduction or other payment
19 method which permits employees to elect to reduce federal taxable
20 compensation under the Internal Revenue Code, including but not limited to
21 Sections 125 and 132 of the Internal Revenue Code;

22 (3) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal
23 Revenue Code;

24 (4) "Employee" means any person who renders services to another person or business
25 entity for compensation, including an officer of a corporation and any officer,

1 employee, or elected official of the United States, a state, or any political
 2 subdivision of a state, or any agency or instrumentality of any one (1) or more of the
 3 above. A person classified as an independent contractor under the Internal Revenue
 4 Code shall not be considered an employee;

5 (5) "Employer" means "employer" as defined in Section 3401(d) of the Internal
 6 Revenue Code;

7 (6) "Gross receipts" means all revenues or proceeds derived from the sale, lease, or
 8 rental of goods, services, or property by a business entity reduced by the following:

9 (a) Sales and excise taxes paid; and

10 (b) Returns and allowances;

11 (7) "Internal Revenue Code" means the Internal Revenue Code in effect on December
 12 31, 2008[2006], as amended~~[exclusive of any amendments made subsequent to that~~
 13 ~~date, other than amendments that extend provisions in effect on December 31, 2006,~~
 14 ~~that would otherwise terminate]~~;

15 (8) "Net profit" means gross income as defined in Section 61 of the Internal Revenue
 16 Code minus all the deductions from gross income allowed by Chapter 1 of the
 17 Internal Revenue Code, and adjusted as follows:

18 (a) Include any amount claimed as a deduction for state tax or local tax which is
 19 computed, in whole or in part, by reference to gross or net income and which
 20 is paid or accrued to any state of the United States, local taxing authority in a
 21 state, the District of Columbia, the Commonwealth of Puerto Rico, any
 22 territory or possession of the United States, or any foreign country or political
 23 subdivision thereof;

24 (b) Include any amount claimed as a deduction that directly or indirectly is
 25 allocable to income which is either exempt from taxation or otherwise not
 26 taxed;

27 (c) Include any amount claimed as a net operating loss carryback or carryforward

1 allowed under Section 172 of the Internal Revenue Code;

2 (d) Include any amount of income and expenses passed through separately as
3 required by the Internal Revenue Code to an owner of a business entity that is
4 a pass-through entity for federal tax purposes; and

5 (e) Exclude any amount of income that is exempt from state taxation by the
6 Kentucky Constitution or the Constitution and statutory laws of the United
7 States;

8 (9) "Sales revenue" means receipts from the sale, lease, or rental of goods, services, or
9 property;

10 (10) "Tax district" means a city of the first to fifth class, county, urban-county, charter
11 county, consolidated local government, school district, special taxing district, or any
12 other statutorily created entity with the authority to levy net profits, gross receipts,
13 or occupational license taxes;

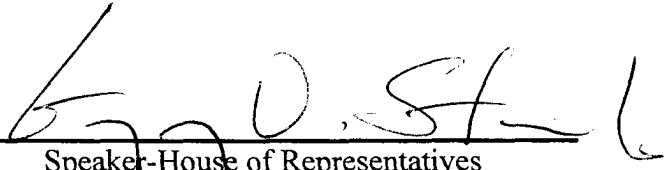
14 (11) "Taxable gross receipts," in case of a business entity having payroll or sales
15 revenues both within and without a tax district, means gross receipts as defined in
16 subsection (6) of this section, as apportioned under KRS 67.753;

17 (12) "Taxable gross receipts," in case of a business entity having payroll or sales revenue
18 only in one (1) tax district, means gross receipts as defined in subsection (6) of this
19 section;

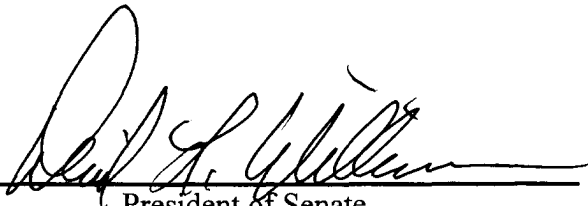
20 (13) "Taxable net profit," in case of a business entity having payroll or sales revenue
21 only in one (1) tax district, means net profit as defined in subsection (8) of this
22 section;

23 (14) "Taxable net profit," in case of a business entity having payroll or sales revenue
24 both within and without a tax district, means net profit as defined in subsection (8)
25 of this section, as apportioned under KRS 67.753; and

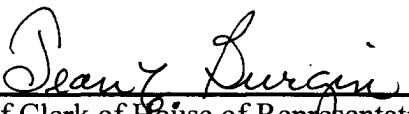
26 (15) "Taxable year" means the calendar year or fiscal year ending during the calendar
27 year, upon the basis of which net income or gross receipts is computed.



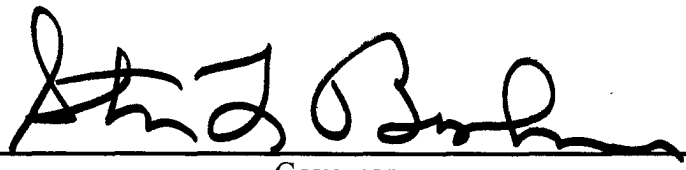
Speaker-House of Representatives



President of Senate

Attest: 

Chief Clerk of House of Representatives

Approved 

Governor

Date 3-20-09